

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ROBERT MONTGOMERY, )  
 )  
Defendant. )

Case No. 10-00187-01-CR-W-ODS

**ORDER (1) ADOPTING MAGISTRATE JUDGE'S REPORTS AND  
RECOMMENDATION (DOC. 151), AND  
(2) DENYING MOTION DISMISS (DOC. 138)**

The Honorable Sarah W. Hays issued her Report and Recommendation concluding that the Court should deny Defendant's motions to dismiss. Defendant filed objections to Judge Hays' Report and Recommendation. See 28 U.S.C. § 636(b)(1). The Court has conducted a de novo review of the record, as well as the applicable law. The Court agrees with the Report and Recommendation that the evidence Defendant contends should have been preserved or obtained was not exculpatory. The Court further agrees with the Report and Recommendation that Defendant failed to show bad faith on the part of the government in not preserving or obtaining this evidence. Judge Hays' Report and Recommendation is adopted as the Order of the Court. Defendant's motion to dismiss is denied.

IT IS SO ORDERED.

DATE: November 18, 2011

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, SENIOR JUDGE  
UNITED STATES DISTRICT COURT